



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC

### Introduction

This hearing convened as a result of a Tenants' Application for Dispute Resolution, filed on November 28, 2020, wherein the Tenants sought to cancel a 1 Month Notice to End Tenancy for Cause issued on November 26, 2020 (the "Notice").

The hearing of the Tenants' Application was scheduled for 11:00 a.m. on February 22, 2021. Only the Landlord's Senior Manager, H.H., called into the hearing. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that H.H. and I were the only ones who had called into this teleconference.

### Preliminary Matter—Landlord's Name

Hearings before the Residential Tenancy Branch are conducted in accordance with the *Residential Tenancy Branch Rules of Procedure*. Rule 4.2 of the *Rules* allows me to amend an Application for Dispute Resolution in circumstances where the amendment might reasonably have been anticipated. The authority to amend is also provided for in section 64(3)(c) of the *Act* which allows an Arbitrator to amend an Application for Dispute Resolution.

On the Application the Tenant named the complex manager, P.Y., as Landlord. A review of the tenancy agreement confirms the Landlord is a corporate entity. I therefore Amend the Tenant's Application to correctly name the Landlord.

### Analysis and Conclusion

Rules 7.1 and 7.3 of the *Residential Tenancy Branch Rules of Procedure* provide as

follows:

**Commencement of Hearing:**

The hearing must commence at the scheduled time unless otherwise decided by the arbitrator.

**Consequences of not attending the hearing**

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

As the Applicants, the Tenants bear the burden of proving their claim on a balance of probabilities. As the Tenants did not call into the hearing by 11:10 a.m., and the Landlord's representative called in and was ready to proceed, **I dismiss the Tenants' claim without leave to reapply.**

Documentary evidence supplied by the Landlord confirms the Tenants vacated the rental unit; as well, a move out condition inspection occurred on January 10, 2021. This was confirmed by H.H. during the hearing before me. Although I have dismissed the Tenants' claim for failure to attend the hearing, I confirm I would have dismissed their claim in any event, as they have vacated the rental unit and as such their Application to cancel the Notice was no longer applicable.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: February 22, 2021

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Residential Tenancy Branch